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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER ROBINSON, GRETA LEE	
			ART UNIT 2168	PAPER NUMBER
DATE MAILED: 02/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/926,751

Applicant(s)

BACILA ET AL.

Examiner

Greta L. Robinson

Art Unit

2168

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13, 18, 19, 31, 33, 34, 38-43 and 52-56 is/are allowed.
- 6) ☒ Claim(s) 14-17, 20-24, 30, 32, 35-37, 44-46 and 57 is/are rejected.
- 7) ☒ Claim(s) 25-29, 47-51 and 58 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/15/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-58 are pending in the present application.
2. Claims 14, 15, 20 and 44 have been amended; and new claims 55-58 have been added.

### ***Information Disclosure Statement***

3. The information disclosure statement (IDS) submitted on June 15, 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner, note attached copy of form PTO 1449.

### ***Drawings***

4. The drawings were received on June 15, 2005. These drawings are acceptable.

### ***Claim Objections***

5. Claim 16 is objected to because of the following informalities: the use of parentheses in the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 16, 17, 32 and 35-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 16 the following phrase is vague and unclear: "commodity (future and/or option)" [note: claim 16 line 3].

Regarding claim 17, the following limitation is vague: "also adapted to communicate changing news to subscribers" [note claim 17 lines 1-2]. It is unclear as to *what element* in the claim *is adapted* to communicate the changing news.

Regarding claim 32, the following phrase is vague: "A system comprising apparatus in accordance with claim 1, and at least one subscriber apparatus" [note claim 32]. The meets and bounds of the claim is not clear. Applicant makes reference to at least one subscriber apparatus but it is not clear as to whether the apparatus is different than that mentioned in claim 1.

Regarding claim 35, the following limitation is vague: "supplying financial information stored in the database for the financial market data sets in the subscriber's profile to the subscriber over the mobile telecommunications network when communication is established with the subscriber" [note: claim 35 lines 10-15]. Claims 36 and 37 are rejected based on dependency.

Claim 37 recites the limitation "that contract" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 14, 20-24, 30, 44-46 and 57 are rejected under 35 U.S.C. 102(e) as being anticipated by Papierniak et al. US Patent 6,934,687 B1.

Regarding claim 14, Papierniak et al. teaches an apparatus for supplying to a subscriber via a mobile telecommunications network continually changing price information for a plurality of different sets of financial market data [note: abstract; Figures 10 and 11; *wireless links may be implemented* col. 11 lines 17-58; col. 13 lines 1-10 *synthesize the multiple sources of data and real-time collection of data ability*], the apparatus comprising:

means for determining which of the different sets of financial market data a subscriber is interested in [note: Figure 8 "APPLIC. CUSTOMER PROFILES"; col. 14 lines 15-27; col. 15 line 5 through col. 16 line 40]; and

means for supplying to the subscriber via the mobile telecommunications network only updated or changed information for the set or sets of financial market data in which

the subscriber is interested [note: col. 12 lines 6-30; col. 9 lines 10-53; col. 11 lines 17-32; *find and collect* col. 12 lines 58-67 ].

10. Regarding claims 20-24 and 30, "a user input interface ... communication means for communicating the subscriber profile data ... receiving means ... advising means ..." [note: Figure 6 "input of data" S2 and "FEEDBACK" S14 (i.e. advising means); col. 13 lines 32-50; also note Figures 8-11; wireless links may be implemented col. 11 lines 17-58].

11. The limitations of claims 44-46 parallel claims 22-24 therefore they are rejected under the same rationale.

12. Regarding claim 57, "a determiner operable to determine which of the different sets of financial market data a subscriber is interested in; and a supplier operable first to supply the set or sets of financial market data ..." [note: Figure 8 *profiles*; col. 14 lines 15-27; col. 15 line 5 through col. 16 line 40; col. 12 lines 58-67; col. 18 lines 53-61; col. 21 lines 1-52].

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Papierniak et al. US Patent 6,934,687 B1 in view of Lange US Patent 6,321,212 B1.

Regarding claim 15 Papierniak et al. teaches an apparatus for applying to a subscriber via a telecommunications network continually changing price information for a plurality of different financial exchange contracts [note: abstract; Figures 10 and 11; *wireless links may be implemented* col. 11 lines 17-58; col. 13 lines 1-10 *synthesize the multiple sources of data and real-time collection of data ability*], the apparatus comprising:

means for determining which of the different sets of financial exchange contracts a subscriber is interested in [note: Figure 8 "APPLIC. CUSTOMER PROFILES"; col. 14 lines 15-27; col. 15 line 5 through col. 16 line 40]; and

means for supplying to the subscriber via the mobile telecommunications network only updated or changed information for the set or sets of financial exchange contracts in which the subscriber is interested [note: col. 12 lines 6-30; col. 9 lines 10-53; col. 11 lines 17-32; *find and collect* col. 12 lines 58-67 ].

Although Papierniak et al. teaches the invention substantially as cited above, they do not explicitly teach that the financial market data includes financial exchange contracts. Lange teaches financial market data includes data such as financial exchange contracts [note: col. 1 lines 37-51; Figure 4]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Lange with Papierniak et al. because Papierniak et al. provides for customized retrieval solutions to data for the end user [note col. 4 lines 1-23].

### ***Response to Arguments***

15. Applicant's arguments filed June 15, 2005, with respect to the rejection(s) of claim(s) 20-30 and 44-51 under 35 USC 112 second paragraph have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration and updated search, a new ground(s) of rejection is made please note citations supra.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



Walker et al. US Patent 6,553,346 B1

Gary US Patent 6,618,707 B1

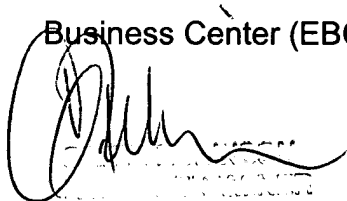
Greener et al. US Patent 6,829,590 B1

Knight et al. US Patent 6,804,675 B1

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571)272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Greta Robinson', with a stylized flourish at the end.

Greta Robinson  
Primary Examiner  
February 9, 2006